IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 30959 of 2007(I)

PETITIONER:

M.C.VINAYAKRISHNAN,
MANKOOL HOUSE, P.O.CHIRAKKAL, KANNUR-11,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER,
SRI. P.LAKSHMANAN, S/O. LATE KUNCHAMBOO,
CHELORA AMSOM, KAPPAD DESOM, KANNUR TALUK,
KANNUR DISTRICT.

BY ADV. SRI.T.M.SREEDHARAN
SRI.V.P.NARAYANAN

RESPONDENTS:
---

1. THE SUB REGISTRAR,
KANNUR.

2. THE DISTRICT REGISTRAR (GENERAL),
KANNUR AT THALASSERY.

3. THE COMMISSIONER FOR LAND REVENUE,
BOARD OF REVENUE BUILDING, THIRUVANANTHAPURAM.

BY GOVT. PLEADER MR. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

= = = = = = = = = = = = = = = = = =
W.P.(C) No. 30959 OF 2007 I
= = = = = = = = = = = = = = = = = =

Dated this the 15th November, 2007

J U D G M E N T

Ext.P1 is a partnership deed dated 6.5.2005. Subsequently, that partnership was dissolved by Ext. P2 which, inter alia, involved settlement of account between the partners and consequent transfer of amounts as well. After the document was presented for registration, it would appear that the matter was referred to the 3rd respondent who issued order dated 22.6.2007. Based on the said order, the 2nd respondent issued Ext. P4 order dated 25-8-2007 requiring the petitioner to remit stamp duty of Rs. 8,81,250/-. It is this order which is under challenge in this writ petition.

2. The learned counsel for the writ petitioner relies on a Full Bench decision of this Court in **Secretary, Board of Revenue v. Sankaranarayan Reddiar & Others** {**1981 KLT 686**} and contend for the position that the document in question does not involve any conveyance

to be made liable for stamp duty as is now demanded by Ext. P4. It is also contended that the impugned proceedings were issued without notice to the petitioner.

3. Irrespective of the contentions that are raised on the merits of the controversy between the parties, i notice that Ext. P4 is based on an order on a reference made to the 3rd respondent under Section 54(2) of the Kerala Stamp Act. The reference was answered by order dated 22-6-2007 and that order is now sought to be implemented by Ext. P4. As rightly pointed out by the learned counsel for the writ petitioner, before the order dated 22-6-2007 issued by the 3rd respondent, petitioner ought to have been given notice and also an opportunity of hearing. It is consequent on the said order dated 22.6.2007 that the petitioner is now attempted to be fastened with liability to pay stamp duty running into several lakhs.

4. Such an order having civil consequences could not have been passed except in compliance with the principles of natural justice. This is all the more so when this Court as also the Apex Court has pronounced on the issue and the petitioner could have canvassed

for this position before the 3rd respondent had he been given an opportunity of hearing.

5. For the aforesaid reason I quash the order dated 22.6.2007 issued by the 3rd respondent as also Ext. P4 order dated 25.8.2007. The 3rd respondent is directed to issue notice to the petitioner and reconsider the reference made to it by the 2nd respondent under Section 54(2) of the Kerala Stamp Act, affording an opportunity of hearing to the petitioner and adverting to the contentions, the 3rd respondent shall pass fresh orders.

6. With this direction the writ petition is disposed of.

Petitioner shall produce a copy of this judgment before the 3rd respondent for compliance.

ANTONY DOMINIC
JUDGE

jan/-